

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal Case No. CR 20-262 (ADM/ECW)

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
FOWZI ABDINASIR ELMI,)
)
Defendant.)

**MOTION TO REQUIRE
GOVERNMENT AGENTS TO
RETAIN ROUGH NOTES**

Fowzi Abdinasir Elmi, through undersigned counsel, pursuant to Title 18, United States Code, Section 3500 and Brady v. Maryland, 375 U.S. 83 (1963), moves the court for an order requiring any law enforcement agent, including any confidential reliable informants, to retain and preserve all rough notes taken as a part of their investigation, whether or not the contents of such rough notes are incorporated in official records, on the following grounds:

1. Rough notes are considered statements within the meaning of Title 18, United States Code, Section 3500(e)(1); United States v. Bernard, 607 F.2d 1257 (9th Cir. 1979); United States v. Gaston, 608 F.2d 607 (5th Cir. 1979);
2. Destruction of rough notes by law enforcement officials usurps the judicial function of determining what evidence must be produced. United States v. Harris, 543 F.2d 1247 (9th Cir. 1976);
3. The rough notes may contain facts favorable to the defense.

This motion is based on the indictment, the records and proceedings herein, such testimony as may be presented at the motion, and any briefing which the court may require thereafter.

Dated: January 24, 2021

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